

Message Text

UNCLASSIFIED

PAGE 01 STATE 014163
ORIGIN EB-08

INFO OCT-01 EUR-12 ISO-00 JUSE-00 CIAE-00 DODE-00 PM-04
H-02 INR-07 L-03 NSAE-00 NSC-05 PA-02 PRS-01 SP-02
SS-15 USIA-15 CAB-05 COME-00 DOTE-00 CIEP-02 FAA-00
/084 R

DRAFTED BY EB/IFD/BP:TASCHLENKER:VJW
APPROVED BY EB/IFD/BP:HJWINTER
L/EB - SBENSON
EB/TT/OA - AWHITE
JUSTICE - DROSENTHAL
EUR/CE - RCASAGRANDE
-----212257Z 003480 /63

P R 212148Z JAN 77
FM SECSTATE WASHDC
TO AMEMBASSY BONN PRIORITY
USMISSION USBERLIN PRIORITY
INFO AMCONSUL FRANKFURT
USMISSION OECD PARIS

UNCLAS STATE 014163

E.O. 11652: N/A

TAGS: ETRD, EAIR, WG, US

SUBJECT: ANTITRUST: NOTIFICATION OF INDICTMENT AGAINST
LUFTHANSA

REF: 75 BONN 2603

1. DEPARTMENT WAS INFORMED JANUARY 19 THAT AN INDICTMENT
AGAINST LUFTHANSA WAS LIKELY FOR ANTITRUST VIOLATIONS.
TEXT OF DEPARTMENT OF JUSTICE (DOJ) NOTICE IS AS FOLLOWS:

-- QTE: FOR SOME TIME THE DEPARTMENT OF JUSTICE HAS
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BEEN CONDUCTING AN INVESTIGATION BEFORE A FEDERAL GRAND

JURY IN THE DISTRICT OF COLUMBIA CONCERNING WHETHER
CERTAIN TRANSATLANTIC COMMERCIAL AIR CARRIERS HAVE AGREED
TO FIX CERTAIN COMMERCIAL FARES IN A MANNER NOT SUBJECT
TO DULY CONSTITUTED AND APPROVED INTERNATIONAL AIR TRANS-
PORT ASSOCIATION (IATA) PROCEDURES. YOU WILL RECALL THAT

THE DEPARTMENT OF JUSTICE NOTIFIED YOUR OFFICE OF THIS INVESTIGATION MORE THAN TWO YEARS AGO, AND GOVERNMENTS OF TRANSATLANTIC CARRIERS WHO WERE SUBJECT TO INVESTIGATION WERE SIMILARLY NOTIFIED. FURTHERMORE, JUST TWO YEARS AGO, THEN ASSISTANT ATTORNEY GENERAL KAUPER WROTE TO DR. KLAUS STAHL, FEDERAL MINISTER FOR ECONOMIC AFFAIRS OF

THE FEDERAL REPUBLIC OF GERMANY. IN THAT LETTER. MR. KAUPER INFORMED DR. STAHL THAT LUFTHANSA WAS A SUBJECT OF THE INVESTIGATION AND INVITED LUFTHANSA AND ITS PERSONNEL TO COOPERATE WITH THE DEPARTMENT IN THE CONDUCT OF THE INVESTIGATION.

-- THIS IS TO INFORM YOU THAT THE GRAND JURY MAY BE ASKED TO CONSIDER THE INDICTMENT OF LUFTHANSA BEFORE IT TERMINATES ITS INVESTIGATION AT THE END OF THIS MONTH. SUCH AN INDICTMENT WOULD BE FOR A MISDEMEANOR VIOLATION OF SECTION 1 OF THE SHERMAN ACT ARISING OUT OF POSSIBLE AGREEMENTS BETWEEN LUFTHANSA AND OTHER TRANSATLANTIC CARRIERS TO FIX PRICES WITH RESPECT TO MILITARY EXCURSION FARES ESTABLISHED OUTSIDE OF THE IATA FRAMEWORK DURING THE PERIOD 1973 TO 1974.

-- INTERNATIONAL AIR CARRIERS HAVE UNITED STATES GOVERNMENT APPROVAL TO AGREE TO FIX INTERNATIONAL FARES (WHICH INVOLVE TRANSPORTATION TO AND FROM UNITED STATES POINTS) ONLY IN ACCORDANCE WITH PROCEDURES ADOPTED BY IATA. IF SUCH PROCEDURES ARE ADHERED TO AND CIVIL AERONAUTICS BOARD APPROVAL IS OBTAINED, ANY PRICE FIXING

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AGREEMENT DULY NEGOTIATED IS SPECIFICALLY EXEMPT FROM THE ORDINARY OPERATION OF UNITED STATES ANTITRUST LAWS. HOWEVER, BECAUSE OUR NATIONAL POLICY PLACES A HIGH PREMIUM ON A COMPETITIVE ECONOMIC SYSTEM, PRICE FIXING ARRANGEMENTS OUTSIDE OF REGULATORY FRAMEWORKS, SUCH AS THAT OF IATA, ARE CLOSELY SCRUTINIZED TO INSURE THAT THE AGREEING PARTIES DO NOT EXCEED THE BOUNDARIES OF THEIR ANTITRUST EXEMPTION. UNQTE.

2. FRG EMBASSY TRANSPORTATION ATTACHE NEUMANN WAS READ TEXT OF DOJ NOTIFICATION LATE JANUARY 19 AND SAID HE WOULD PROMPTLY INFORM FRG AUTHORITIES AND LUFTHANSA HEADQUARTERS IN U.S. ADDRESSEES ARE ALSO REQUESTED TO INFORM THE APPROPRIATE FRG AGENCIES OF THIS IMPENDING ACTION IN ACCORDANCE WITH 1967 OECD NOTIFICATION RECOMMENDATION AND REPORT ANY REACTIONS.

3. EXACT DATE OF INDICTMENT ISSUANCE IS NOT RPT NOT KNOWN, BUT MUST TAKE PLACE ON OR BEFORE JANUARY 30 WHEN

LIFE OF GRAND JURY EXPIRES. FOR EMBASSY'S INFORMATION,
OTHER TRANSATLANTIC CARRIERS MENTIONED IN DOJ LETTER
ARE U.S. COMPANIES BUT DOJ NOT PRESENTLY AT LIBERTY TO
SPECIFY THEM. NO RPT NO OTHER FOREIGN AIR CARRIERS ARE
EXPECTED TO BE INDICTED.
HABIB

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PAGE 01 STATE 014163
ORIGIN EUR-12

INFO OCT-01 AS-01 ISO-00 /014 R

66011
DRAFTED BY:EUR/RPE:EACASEY
APPROVED BY:EUR/RPE:EACASEY
-----260748Z 047656 /20

R 260530Z JAN 77
FM SECSTATE WASHDC
TO USMISSION EC BRUSSELS

UNCLAS STATE 014163

FOLLOWING SECSTATE 014163 SENT ACTION BONN USBERLIN
INFO FRANKFURT OECD PARIS JAN. 21; REPEATED TO YOU QUOTE

UNCLAS STATE 014163

E.O. 11652: N/A

TAGS: ETRD, EAIR, WG, US

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LUFTHANSA

REF: 75 BONN 2603

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JURY IN THE DISTRICT OF COLUMBIA CONCERNING WHETHER

CERTAIN TRANSATLANTIC COMMERCIAL AIR CARRIERS HAVE AGREED
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TO FIX CERTAIN COMMERCIAL FARES IN A MANNER NOT SUBJECT TO DULY CONSTITUTED AND APPROVED INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA) PROCEDURES. YOU WILL RECALL THAT THE DEPARTMENT OF JUSTICE NOTIFIED YOUR OFFICE OF THIS INVESTIGATION MORE THAN TWO YEARS AGO, AND GOVERNMENTS OF TRANSATLANTIC CARRIERS WHO WERE SUBJECT TO INVESTIGATION WERE SIMILARLY NOTIFIED. FURTHERMORE, JUST TWO YEARS AGO, THEN ASSISTANT ATTORNEY GENERAL KAUPER WROTE TO DR. KLAUS STAHL, FEDERAL MINISTER FOR ECONOMIC AFFAIRS OF

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-- INTERNATIONAL AIR CARRIERS HAVE UNITED STATES GOVERNMENT APPROVAL TO AGREE TO FIX INTERNATIONAL FARES (WHICH INVOLVE TRANSPORTATION TO AND FROM UNITED STATES POINTS) ONLY IN ACCORDANCE WITH PROCEDURES ADOPTED BY IATA. IF SUCH PROCEDURES ARE ADHERED TO AND CIVIL AERONAUTICS BOARD APPROVAL IS OBTAINED, ANY PRICE FIXING AGREEMENT DULY NEGOTIATED IS SPECIFICALLY EXEMPT FROM THE ORDINARY OPERATION OF UNITED STATES ANTITRUST LAWS. HOWEVER, BECAUSE OUR NATIONAL POLICY PLACES A HIGH PREMIUM ON A COMPETITIVE ECONOMIC SYSTEM, PRICE FIXING
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ARRANGEMENTS OUTSIDE OF REGULATORY FRAMEWORKS, SUCH AS THAT OF IATA, ARE CLOSELY SCRUTINIZED TO INSURE THAT THE AGREEING PARTIES DO NOT EXCEED THE BOUNDARIES OF THEIR ANTITRUST EXEMPTION. UNQTE.

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3. EXACT DATE OF INDICTMENT ISSUANCE IS NOT RPT NOT KNOWN, BUT MUST TAKE PLACE ON OR BEFORE JANUARY 30 WHEN LIFE OF GRAND JURY EXPIRES. FOR EMBASSY'S INFORMATION, OTHER TRANSATLANTIC CARRIERS MENTIONED IN DOJ LETTER ARE U.S. COMPANIES BUT DOJ NOT PRESENTLY AT LIBERTY TO SPECIFY THEM. NO RPT NO OTHER FOREIGN AIR CARRIERS ARE EXPECTED TO BE INDICTED. HABIB UNQUOTE VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ANTITRUST
Control Number: n/a
Copy: SINGLE
Sent Date: 21-Jan-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Document Source: CORE
Document Unique ID: 00
Drafter: TASCHLENKER:VJW
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770023-0579
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770128/aaaaaysd.tel
Line Count: 239
Litigation Code IDs:
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Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: a9ccb7d2-c288-dd11-92da-001cc4696bcc
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Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
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Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 75 BONN 2603
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Review Content Flags:
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Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3532927
Secure: OPEN
Status: NATIVE
Subject: ANTITRUST: NOTIFICATION OF INDICTMENT AGAINST LUFTHANSA
TAGS: ETRD, EAIR, GE, US, LUFTHANSA
To: BONN USBERLIN
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/a9ccb7d2-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
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